

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In re Applications of)	MM Docket No. 93-89
)	
AURIO A. MATOS)	File No. BPH-911114MS
)	
LLOYD SANTIAGO-SANTOS and LOURDES)	File No. BPH-911115MP
RODRIGUES-BONET)	
)	
For Construction Permit for a New)	
FM Station on Channel 293A in)	
Culebra, Puerto Rico)	

RECEIVED

MAY 23 1994

To: The Review BoardFEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARYPETITION FOR LEAVE TO AMEND

Aurio A. Matos ("Matos"), by his counsel and pursuant to Section 73.3522 of the Commission's Rules respectfully petitions for leave to amend the technical portion of his application so that it conforms with the FAA's Determination of No Hazard (the "FAA Determination") issued with respect to the site Matos proposed in his February 7, 1994 Petition for Leave to Amend (the "February Amendment").

In the February Amendment, Matos proposed a tower height of 210 feet. On March 16, 1994, the FAA informed Matos that a 210 foot tall tower would have an adverse effect on instrument altitudes at the site he proposed, but that if he agreed to reduce the height to 99 feet, that problem would be abated and the proposal could be circulated for comment.

The FAA Determination for the site Matos proposed in the February Amendment was issued on May 4, 1994 and filed as an amendment to his pending FCC application on May 5, 1994. In his May 5, 1994 Petition for Leave to Amend, Matos represented that an

No. of Copies rec'd 05-11
 List ABCDE

amendment reducing this tower height from 210 to 99 feet at the site proposed in his February Amendment would be forthcoming.


The Amendment, filed contemporaneously under separate cover, uses the same site Matos proposed in his February Amendment but with a tower height of 99 feet. At the site and tower height proposed, Matos' facility will still serve a considerable greater area and significantly more population than the Santiago and Rodrigues application.

Good cause exists for the acceptance of this amendment. The amendment is being offered in a timely manner, will not cause the addition of parties or issues to the proceeding, will not prejudice other parties and will result in no comparative advantage to Matos. See Erwin O'Connor Broadcasting Co., 22 FCC 2d 140, 143 (Rev. Bd. 1970).

WHEREFORE, it is respectfully requested that Matos' proposed amendment be accepted.

BROWN, NIETERT & KAUFMAN
1920 N Street, N.W.
Suite 660
Washington, D.C. 20036
(202) 887-0600

Respectfully submitted,
AURIO A. MATOS

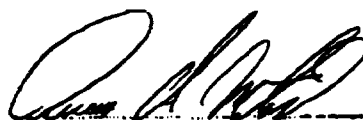


Scott C. Cinnamon
His Attorney

May 23, 1994

To: Federal Communications Commission
From: Aurio A. Matos
Re: Amendment of Application BPH-911114MS
Date: May 17, 1994

I respectfully amend my application to include the technical proposal attached hereto. The engineering study attached relies on the site I proposed in february 1994, at a tower height of 99 feet, consistent with the FAA's recent Determination of No Hazard.


Aurio A. Matos

Section V-B - FM BROADCAST ENGINEERING DATA

FOR COMMISSION USE ONLY

File No. _____
 ASB Referral Date _____
 Referred by _____

Name of Applicant
 Aurio Matos Barreto

Call letters (if issued)
 New

Is this application being filed in response to a window? ☐ Yes ☒ No
 If Yes, specify closing date: _____

Purpose of Application: (check appropriate boxes)

Amend application BPH-911114MS (As amended)

- | | |
|--|---|
| <input type="checkbox"/> Construct a new (main) facility | <input type="checkbox"/> Construct a new auxiliary facility |
| <input type="checkbox"/> Modify existing construction permit for main facility | <input type="checkbox"/> Modify existing construction permit for auxiliary facility |
| <input type="checkbox"/> Modify licensed main facility | <input type="checkbox"/> Modify licensed auxiliary facility |

If purpose is to modify, indicate below the nature of change(s) and specify the file number(s) of the authorizations affected.

- | | |
|--|--|
| <input checked="" type="checkbox"/> Antenna supporting-structure height | <input type="checkbox"/> Effective radiated power |
| <input checked="" type="checkbox"/> Antenna height above average terrain | <input type="checkbox"/> Frequency |
| <input type="checkbox"/> Antenna location | <input type="checkbox"/> Class |
| <input type="checkbox"/> Main Studio location | <input type="checkbox"/> Other (Summarize briefly) |

File Number(s) BPH-911114MS (As amended)

1. Allocation:

Channel No.	Principal community to be served:		
	City	County	State
293	Culebra	Culebra	PR

Class (check only one box below)

- ☒ A ☐ B1 ☐ B ☐ C3
☐ C2 ☐ C1 ☐ C

2. Exact location of antenna.

(a) Specify address, city, county and state. If no address, specify distance and bearing relative to the nearest town or landmark. 1.25 miles (2.0 km) 322.4° from Culebra, Culebra County, Puerto Rico.

(b) Geographical coordinates (to nearest second). If mounted on element of an AM array, specify coordinates of center of array. Otherwise, specify tower location. Specify South Latitude or East Longitude where applicable; otherwise, North Latitude or West Longitude will be presumed.

Latitude	18°	19'	10"	Longitude	65°	18'	48"
----------	-----	-----	-----	-----------	-----	-----	-----

3. Is the supporting structure the same as that of another station(s) or proposed in another pending application(s)? ☐ Yes ☒ No

If Yes, give call letter(s) or file number(s) or both.

N/A

If proposal involves a change in height of an existing structure, specify existing height above ground level including antenna, all other appurtenances, and lighting, if any.

N/A

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 2)

4. Does the application propose to correct previous site coordinates?

☐ Yes ☒ No

If Yes, list old coordinates.

Latitude	°	'	"	Longitude	°	'	"
----------	---	---	---	-----------	---	---	---

5. Has the FAA been notified of the proposed construction?

☒ Yes ☐ No

If Yes, give date and office where notice was filed and attach as an Exhibit a copy of FAA determination, if available.

Exhibit No.
1Date 5-4-94 Office where filed Southern Region, Atlanta, Georgia

6. List all landing areas within 8 km of antenna site. Specify distance and bearing from structure to nearest point of the nearest runway.

	Landing Area	Distance (km)	Bearing (degrees True)
(a)	<u>Culebra</u>	<u>1 km.</u>	<u>135°</u>
(b)	<u></u>	<u></u>	<u></u>

7. (a) Elevation: (to the nearest meter)

(1) of site above mean sea level; 145 meters(2) of the top of supporting structure above ground (including antenna, all other appurtenances, and lighting, if any); and 30 meters(3) of the top of supporting structure above mean sea level [(aX1) + (aX2)] 175 meters

(b) Height of radiation center: (to the nearest meter) H = Horizontal; V = Vertical

(1) above ground 25 meters (H)25 meters (V)(2) above mean sea level [(aX1) + (bX1)] 170 meters (H)170 meters (V)(3) above average terrain 166 meters (H)166 meters (V)

8. Attach as an Exhibit sketch(es) of the supporting structure, labelling all elevations required in Question 7 above, except item 7(b)(3). If mounted on an AM directional-array element, specify heights and orientations of all array towers, as well as location of FM radiator.

Exhibit No.
2

9. Effective Radiated Power:

(a) ERP in the horizontal plane

6 kw (H*) 6 kw (V*)

(b) Is beam tilt proposed?

☐ Yes ☒ No

If Yes, specify maximum ERP in the plane of the tilted beam, and attach as an Exhibit a vertical elevational plot of radiated field.

Exhibit No.
N/A kw (H*) kw (V*)

*Polarization

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 3)

10. Is a directional antenna proposed?

☐ Yes ☒ No

If Yes, attach as an Exhibit a statement with all data specified in 47 C.F.R. Section 73.316, including plot(s) and tabulations of the relative field.

Exhibit No.
N/A

11. Will the proposed facility satisfy the requirements of 47 C.F.R. Sections 73.315(a) and (b)?

☒ Yes ☐ No

If No, attach as an Exhibit a request for waiver and justification therefor, including amounts and percentages of population and area that will not receive 3.16 mV/m service.

Exhibit No.
N/A

12. Will the main studio be within the protected 3.16 mV/m field strength contour of this proposal?

☒ Yes ☐ No

If No, attach as an Exhibit justification pursuant to 47 C.F.R. Section 73.1126.

Exhibit No.
N/A

13. (a) Does the proposed facility satisfy the requirements of 47 C.F.R. Section 73.207?

☒ Yes ☐ No

(b) If the answer to (a) is No, does 47 C.F.R. Section 73.213 apply?

☐ Yes ☐ No

(c) If the answer to (b) is Yes, attach as an Exhibit a justification, including a summary of previous waivers.

Exhibit No.
N/A

(d) If the answer to (a) is No and the answer to (b) is No, attach as an Exhibit a statement describing the short spacing(s) and how it or they arose.

Exhibit No.
N/A

(e) If authorization pursuant to 47 C.F.R. Section 73.215 is requested, attach as an Exhibit a complete engineering study to establish the lack of prohibited overlap of contours involving affected stations. The engineering study must include the following:

Exhibit No.
N/A

- (1) Protected and interfering contours, in all directions (360°), for the proposed operation.
- (2) Protected and interfering contours, over pertinent arcs, of all short-spaced assignments, applications and allotments, including a plot showing each transmitter location, with identifying call letters or file numbers, and indication of whether facility is operating or proposed. For vacant allotments, use the reference coordinates as the transmitter location.
- (3) When necessary to show more detail, an additional allocation study utilizing a map with a larger scale to clearly show prohibited overlap will not occur.
- (4) A scale of kilometers and properly labeled longitude and latitude lines, shown across the entire exhibit(s). Sufficient lines should be shown so that the location of the sites may be verified.
- (5) The official title(s) of the map(s) used in the exhibit(s).

14. Are there: (a) within 60 meters of the proposed antenna, any proposed or authorized FM or TV transmitters, or any nonbroadcast (except citizens band or amateur) radio stations; or (b) within the blanketing contour, any established commercial or government receiving stations, cable head-end facilities, or populated areas; or (c) within ten (10) kilometers of the proposed antenna, any proposed or authorized FM or TV transmitters which may produce receiver-induced intermodulation interference?

☒ Yes ☐ No

If Yes, attach as an Exhibit a description of any expected, undesired effects of operations and remedial steps to be pursued if necessary, and a statement accepting full responsibility for the elimination of any objectionable interference (including that caused by receiver-induced or other types of modulation) to facilities in existence or authorized or to radio receivers in use prior to grant of this application. (See 47 C.F.R. Sections 73.315(b), 73.316(a) and 73.318.)

Exhibit No.

On File
No Change

15. Attach as an Exhibit a 7.5 minute series U.S. Geological Survey topographic quadrangle map that shows clearly, legibly, and accurately, the location of the proposed transmitting antenna. This map must comply with the requirements set forth in Instruction V (D). The map must further clearly and legibly display the original printed contour lines and data as well as latitude and longitude markings, and must bear a scale of distance in kilometers.

Exhibit No.

On File
No Change

16. Attach as an Exhibit *(name the source)* a map which shows clearly, legibly, and accurately, and with the original printed latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
6

(a) the proposed transmitter location, and the radials along which profile graphs have been prepared;

(b) the 3.16 mV/m and 1 mV/m predicted contours; and

(c) the legal boundaries of the principal community to be served.

17. Specify area in square kilometers (1 sq. mi. = 2.59 sq. km.) and population (latest census) within the predicted 1 mV/m contour.

Area 4076.6 Total Area sq. km. Population 35,531 1990 Census (PL 94-171 Files)

245 Land Area

18. For an application involving an auxiliary facility only, attach as an Exhibit a map *(Sectional Aeronautical Chart or equivalent)* that shows clearly, legibly, and accurately, and with latitude and longitude markings and a scale of distance in kilometers:

Exhibit No.
N/A

(a) the proposed auxiliary 1 mV/m contour; and

(b) the 1 mV/m contour of the licensed main facility for which the applied-for facility will be auxiliary. Also specify the file number of the license.

19. Terrain and coverage data *(to be calculated in accordance with 47 C.F.R. Section 73.313)*

Source of terrain data: *(check only one box below)*

☒ Linearly interpolated 30-second database ☐ 7.5 minute topographic map

(Source: NGDC)

☐ Other *(briefly summarize)*

SECTION V-B - FM BROADCAST ENGINEERING DATA (Page 5)

Radial bearing (degrees True)	Height of radiation center above average elevation of radial from 8 to 16 km (meters)	Predicted Distances	
		To the 3.16 mV/m contour (kilometers)	To the 1 mV/m contour (kilometers)
* 142°	166.49	21.1	35.9
0 **			
45 **			
90	157.39	20.5	34.9
135	168.19	21.2	36.1
180	169.69	21.3	36.2
225	169.19	21.2	36.2
270	169.69	21.3	36.2
315 *	164.09	20.9	35.6

* Radial through principal community, if not one of the major radials. This radial should NOT be included in the calculation of HAAT. * Radial shortened by the Atlantic Ocean per §73.313 (d)(4)(iii)

** Total Radial over Atlantic Ocean and excluded per §73.313 (d)(4)(ii)

20. Environmental Statement (See 47 C.F.R. Section 1.1301 et seq.)

Would a Commission grant of this application come within Section 1.1307 of the FCC Rules, such that it may have a significant environmental impact? ☐ Yes ☒ No

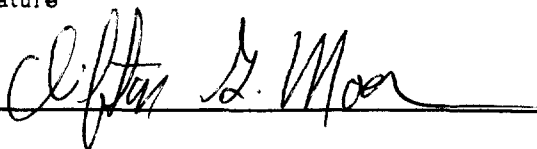
If you answer Yes, submit as an Exhibit an Environmental Assessment required by Section 1.1311.

Exhibit No.
N/A

If No, explain briefly why not. Categorically excluded per §1.1306 of the Commissions's Rules. Radiofrequency Radiation Statement and Calculation is Exhibit #7.

CERTIFICATION

I certify that I have prepared this Section of this application on behalf of the applicant, and that after such preparation, I have examined the foregoing and found it to be accurate and true to the best of my knowledge and belief.

Name (Typed or Printed) Clifton G. Moor Bromo Communications, Inc.	Relationship to Applicant (e.g., Consulting Engineer) Technical Consultant
Signature 	Address (Include ZIP Code) P. O. Box 1588 Clayton, Georgia 30525-1588
Date May 13, 1994	Telephone No. (Include Area Code) (706) 782-7222

AMENDMENT OF BPH-911114MS
AURIO MATOS BARRETO
CHANNEL 239 - CLASS A
CULEBRA, PUERTO RICO
MAY 1994

Technical Exhibit
TE-1

BROMO COMMUNICATIONS, INC.
P. O. BOX 1588
CLAYTON, GEORGIA 30525-1588
(706) 782-7222

2ND FLOOR, OLD COURTHOUSE
WARWOMAN ROAD
CLAYTON, GEORGIA 30525

AMENDMENT OF BPH-911114MS
AURIO MATOS BARRETO
CHANNEL 239 - CLASS A
6 KW - 166 M HAAT
CULEBRA, PUERTO RICO
May 1994

This amendment of BPH-911114MS is being compiled for Aurio Matos Barreto, applicant. It is necessitated by the Federal Aviation Administration not granting the previously requested height. Now that a lower height has been approved, the pending Form 301 is being amended to reflect the new authorized height. Exhibit #1 is the FAA Determination Of No Hazard To Air Navigation.

Only those items that have changed are being resubmitted. The revised items are: FAA determination, Proposed Contours, Radiofrequency Radiation Statement/Calculation. All other items are on file and remain the same.



US Department
of Transportation
**Federal Aviation
Administration**

SOUTHERN REGION
ATTN: ASO-532
P.O. BOX 20626
ATLANTA, GEORGIA 30320
404-305-5588

IN REPLY REFER TO
AERONAUTICAL STUDY
NO. 94-ASO-0194-OE

DETERMINATION OF NO HAZARD TO AIR NAVIGATION

SPONSOR	Aurio Matos Barreto P.O. Box 847 Mayaguez, Puerto Rico 00709	CONSTRUCTION LOCATION	
		PLACE NAME	
		Culebra, Puerto Rico	
		LATITUDE	LONGITUDE
		18°19'02.84"	65°18'46.57"
CONSTRUCTION PROPOSED	DESCRIPTION Antenna Tower (106.5 MHz)	HEIGHT (IN FEET)	
		ABOVE GROUND	ABOVE MSL
		99	575

An aeronautical study of the proposed construction described above has been completed under the provisions of Part 77 of the Federal Aviation Regulations. Based on the study it is found that the construction would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities. Therefore, pursuant to the authority delegated to me, it is hereby determined that the construction would not be a hazard to air navigation provided the following conditions are met:

Conditions:

The structure should be marked and lighted in accordance with the standards of the FAA Obstruction Marking and Lighting Advisory Circular 70/7460-1H, Chapters 3, 4, 5 and 13.

Supplemental notice of construction is required any time the project is abandoned (use the enclosed FAA form), or

- ☒ ^{10 Days}
~~At least 10 days~~ before the start of construction (use the enclosed FAA form).
☒ Within five days after the construction reaches its greatest height (use the enclosed FAA form)

This determination expires on **December 13, 1994** unless:

- (a) extended, revised or terminated by the issuing office;
- (b) the construction is subject to the licensing authority of the Federal Communications Commission and an application for a construction permit is made to the FCC on or before the above expiration date. In such case the determination expires on the date prescribed by the FCC for completion of construction, or on the date the FCC denies the application.

NOTE: Request for extension of the effective period of this determination must be postmarked or delivered to the issuing office at least 15 days prior to the expiration date.

This determination is subject to review if an interested party files a petition on or before **June 3, 1994**. In the event a petition for review is filed, it should be submitted in triplicate to the Manager, Flight Information and Obstructions Branch, AAT-210, Federal Aviation Administration, Washington, D.C. 20591, and contain a full statement of the basis upon which it is made.

This determination becomes final on **June 13, 1994** unless a petition for review is timely filed, in which case the determination will not become final pending disposition of the petition. Interested parties will be notified of the grant of any review.


An account of the study findings, aeronautical objections, if any, registered with the FAA during the study, and the basis for the FAA's decision in this matter will be found on the following page(s).

If the structure is subject to the licensing authority of the FCC, a copy of this determination

This determination, issued in accordance with FAA Part 77, concerns the effect of this structure on the navigable airspace by aircraft and does not relieve the sponsor of any compliance responsibility to the Federal, State, or local government body.

Distribution: ZAT-03

EXHIBIT #1
AMEND BPH911114MS
AURIO MATOS BARRETO
CHANNEL 293 - CLASS A
6 KW - 166 M HAAT
CULEBRA, PUERTO RICO
MAY 1994

SIGNED  TITLE Airspace Specialist
Armando Castro System Management Branch
ISSUED IN College Park, Georgia ON May 4, 1994

The proposed antenna tower would be located approximately 0.55 nautical miles (NM) northwest of the Culebra Airport reference point, in Culebra, PR. It would exceed obstruction standards contained in Part 77, Subpart C, of the Federal Aviation Regulations as follows:

77.23(a)(5) by the entire proposed height, a height that exceeds an imaginary horizontal and transitional surface as applied to the Culebra Airport.

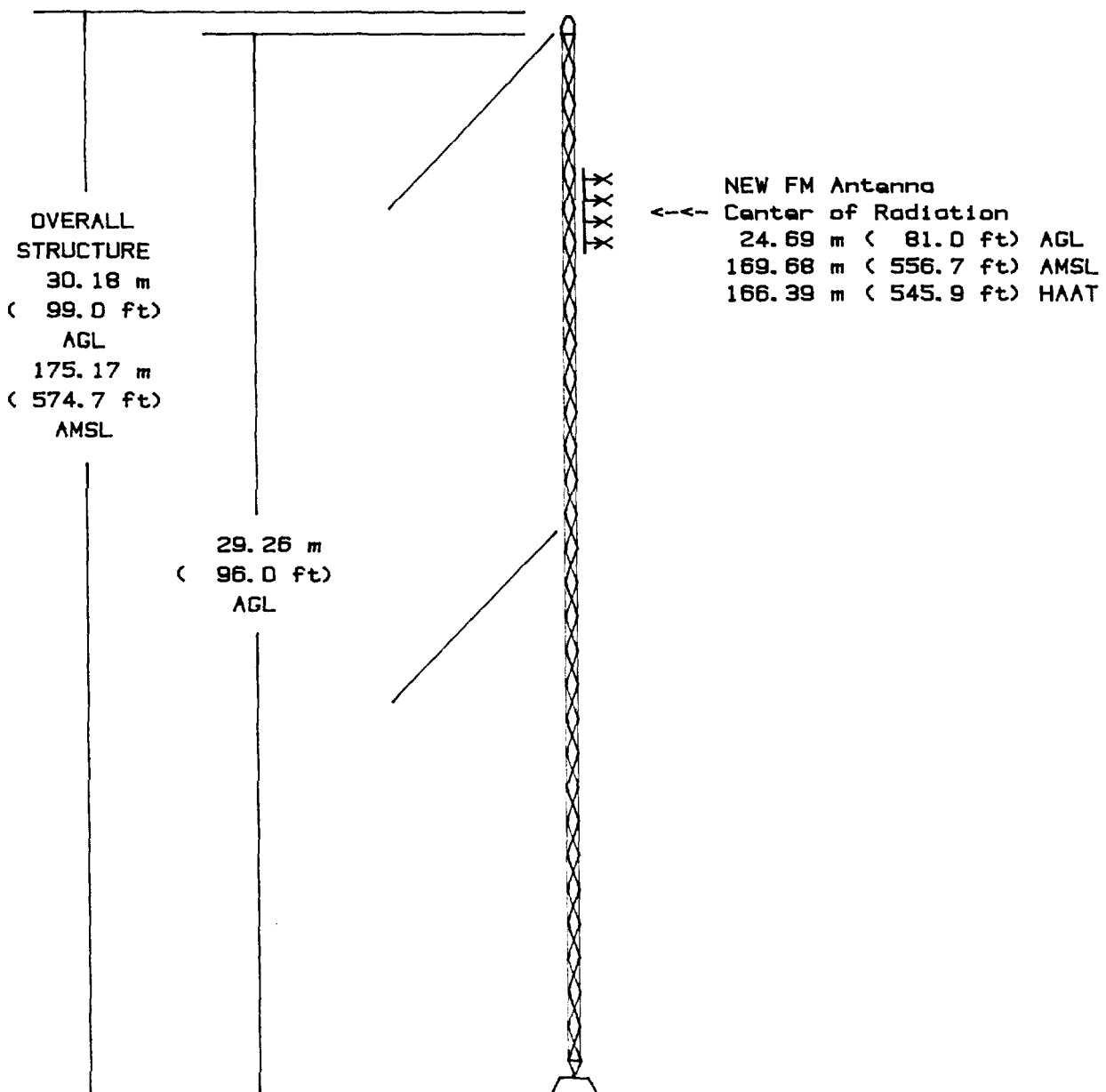
The proposal was circularized to the aeronautical public for comment. No objections were received in response to the circular.

Aeronautical study disclosed the proposed structure would have no adverse effect upon any existing or planned instrument flight rules (IFR) operations, procedures, or minimum flight altitudes.

Study for visual flight rules (VFR) effect disclosed that the proposal would not penetrate any known public use or military airport traffic pattern airspace areas. The proposal at 99 feet AGL would not penetrate altitudes considered available for VFR en route operations.

The cumulative impact resulting from the proposed construction, when combined with the impact of other existing or proposed structures, was negligible.

Therefore, it is determined that the proposed structure would have no substantial adverse effect on the safe and efficient utilization of the navigable airspace by aircraft or on the operation of air navigation facilities and would not be a hazard to air navigation.



North Latitude 18-19-10

West Longitude 65-18-48

Site Elev 144.99 m (475.7 ft) AMSL

Terrn Avg 3.29 m (10.8 ft) AMSL

(Sketch not drawn to scale)

VERTICAL PLAN SKETCH

SITE ELEVATION - 145 m (476 ft) AMSL

TOP OF STRUCTURE - 30 m (99 ft) AGL
175 m (575 ft) AMSL

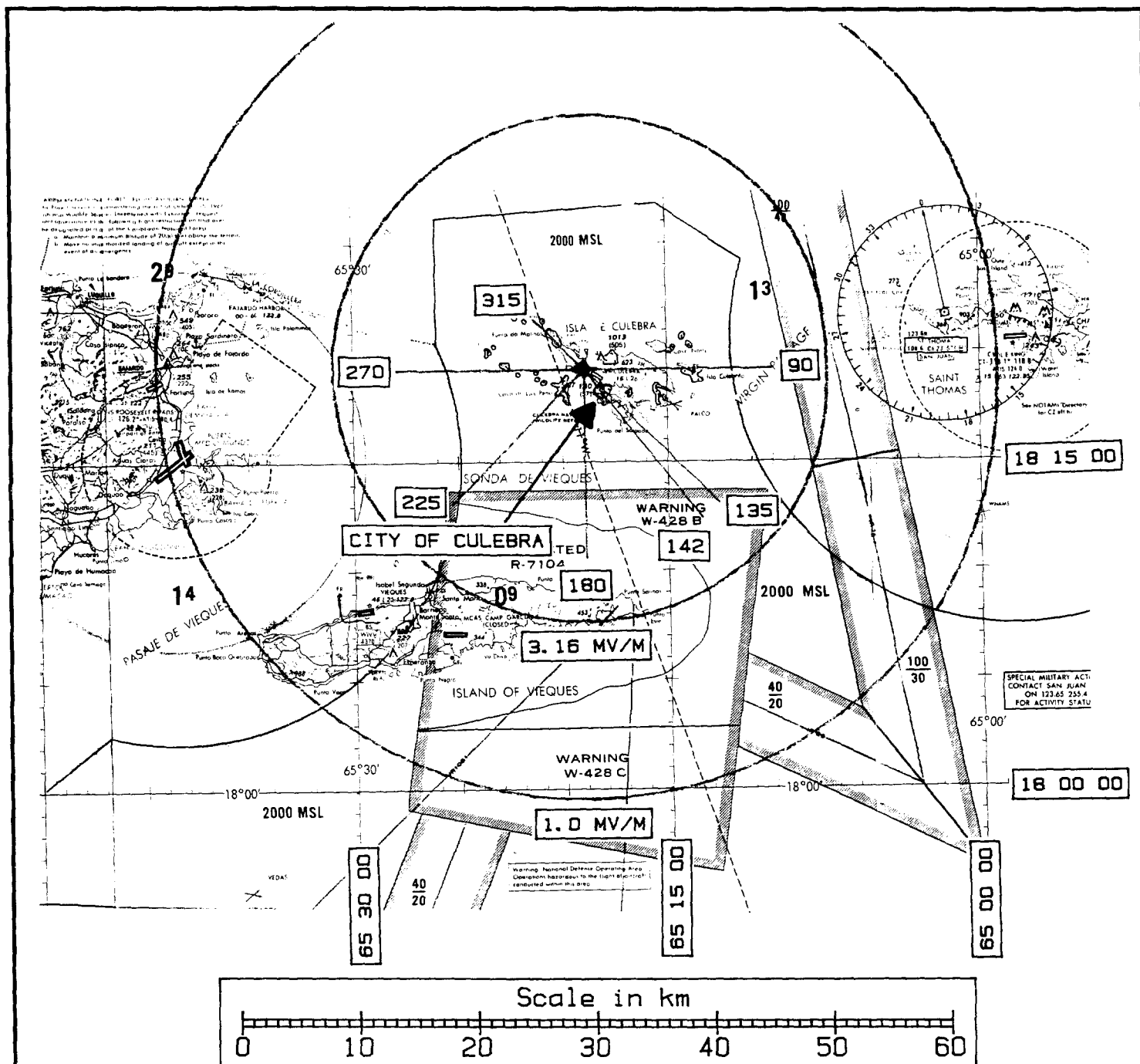
FM Antenna COR - 25 m (81 ft) AGL
170 m (557 ft) AMSL
166 m (546 ft) HAAT

FIGURES ROUNDED TO NEAREST METER (FOOT).

EXHIBIT #2

AMEND BPH911114MS
AURIO MATOS BARRETO
CHANNEL 293 - CLASS A
6 KW - 166 M HAAT
CULEBRA, PUERTO RICO
MAY 1994

BROMO
COMMUNICATIONS
BROADCAST
TECHNICAL CONSULTANTS
St Simons Island, Georgia
Washington, D.C.



PROPOSED CONTOURS

PROPOSED SITE:
18 19 10 NORTH LATITUDE
65 18 48 WEST LONGITUDE

MAP IS TERMINAL AERONAUTICAL CHART OF
PUERTO RICO AND U.S. VIRGIN ISLANDS
(REDUCED).

EXHIBIT #6

AMEND BPH911114MS
AURIO MATOS BARRETO
CHANNEL 293 - CLASS A
6 KW - 166 M HAAT
CULEBRA, PUERTO RICO
MAY 1994

BROMO
COMMUNICATIONS

BROADCAST
TECHNICAL CONSULTANTS

St Simons Island, Georgia

Washington, D.C.

AMENDMENT OF BPH-911114MS
AURIO MATOS BARRETO
CHANNEL 239 - CLASS A
6 KW - 166 M HAAT
CULEBRA, PUERTO RICO
May 1994

EXHIBIT #7

Radiofrequency Radiation Study and Statement

This radiofrequency radiation study is being conducted to determine whether this proposal is in compliance with OST Bulletin Number 65, dated October 1985, regarding human exposure to radiofrequency radiation in the vicinity of broadcast towers. This study considers all nearby contributing stations and utilizes the appropriate formula's contained in the OST Bulletin.

The Aurio Matos Barreto 4-bay antenna system will be mounted with its center of radiation 24.69 meters (81.0 feet) above the ground at the proposed tower location and operate with an effective radiated power of 6.0 kilowatts in the horizontal and vertical plane (circularly polarized). At two meters, the height of an average person above the ground at the base of the proposed tower, this proposal will contribute, worst case, 778.72 microwatts/sq. centimeter or 77.87% of the allowable ANSI limit. Since this level is below the 100% limit defined in the aforementioned bulletin, this proposal is believed to be in compliance with OST Bulletin Number 65 as is required by the Federal Communications Commission.

Further, the applicant will post warning signs in the vicinity of the tower warning of potential radiofrequency radiation hazards at the site. In addition, the applicant will reduce the power of the proposed facility or cease operation, as necessary, to protect persons having access to the site, tower or antenna, from radiofrequency radiation in excess of FCC guidelines.

CERTIFICATE OF SERVICE

I, Scott C. Cinnamon, do certify that on this 23rd day of May, 1994, a copy of the foregoing was sent via first class mail, postage prepaid or delivered, as indicated, to the parties set forth below:

Honorable Joseph A. Marino, Chairman
The Review Board
Federal Communications Commission
2000 L Street, N.W.
Washington, D.C. 20554 *

Honorable Marjorie Reed Greene
The Review Board
Federal Communications Commission
2000 L Street, N.W.
Washington, D.C. 20554 *

Allan Sacks, Chief of Law
The Review Board
Federal Communications Commission
2000 L Street, N.W.
Washington, D.C. 20554 *

Audrey P. Rasmussen, Esq.
David L. Hill, Esq.
O'Connor & Hannan
1919 Pennsylvania Avenue, N.W.
Suite 800
Washington, D.C. 20006

Gary Schonman, Esq.
Hearing Branch
Federal Communications Commission
2025 M Street, N.W., Suite 7212
Washington, D.C. 20554 *

Chief, Data Management Staff
Audio Services Division
Federal Communications Commission
1919 M Street, N.W., Room 350
Washington, D.C. 20554 **

* - via hand delivery

** - via FCC Mailroom



Scott C. Cinnamon